IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL NO. 706 OF 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

==========

RAJNIKANT GANDALAL PATEL & ORS. - Appellant(s)
Versus
GORDHANDAS CHHOTALAL PATEL - Respondent(s)

==========

Appearance :
Shri Rajni H. Mehta for Appellant(s).
Shri Shah for Shri B. A. Surti for Respondent(s).

==========

CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 05/09/2007

ORAL JUDGMENT

The appellants, driver, owner and Insurance Company of Car No. GBN-910, being aggrieved by the award dated 25th March, 1991

passed by the learned Motor Accident Claims Tribunal No.4, Ahmedabad in M.A.C.P. No. 310 of 1988, are before this Court with a submission that the learned Tribunal below erred in awarding a sum of Rs.1,22,400/- in excess of the liability of the appellants.

2. Shri Rajni Mehta, learned Counsel for the appellants, submitted that in view of the judgement of the Supreme Court, a joint appeal by the driver, owner, insured and insurer would not be maintainable, therefore, appellant No.3 be allowed to be deleted. It is accordingly ordered. Office to make necessary corrections in the cause title within ten days.

3. As the present appellants are not challenging the total amount of award, that is, Rs.1,22,400/-, but, are confining their claim in the appeal to Rs.82,400/-, it would not be necessary for this Court to detail the facts and burden this judgement.

4. After taking me through the evidence, Shri Rajni Mehta, learned Counsel for the appellants, submitted that the learned Tribunal erred in awarding a sum of Rs.91,800/- under the head of future loss of income and also erred in awarding Rs.15,400/- under the head of actual loss of salary for four months and twenty days.

5. Shri Shah, learned Counsel for the respondent, on the other hand, submitted that from the evidence, it would clearly appear that the claimant had suffered permanent partial disability to the extent of 15%, which in terms of money would be Rs.510/- per month against the salary of Rs.3,400/- and the learned Tribunal below was absolutely justified in making the said award. He also submitted that as the claimant could not attend to his job for a period of four months and twenty days, the learned Tribunal below was justified in making the award in favour of the claimant.

6. From the evidence available on the record, it would appear that the claimant was gainfully employed on the salary of Rs.3,400/-; from the evidence of the doctor, it would also appear that he had suffered permanent partial disability to the extent of 15%. If on the basis of these two, the learned Tribunal below has awarded a sum of Rs.91,800/- towards the future loss of earning and Rs.15,400/- under the head of actual loss of salary, then, no wrong can be found with the findings recorded by the learned Tribunal below. The learned Tribunal below was also justified in awarding a sum of Rs.12,500/- for pain, shock and suffering, which the claimant had undergone as a result of the accident.

7. I find no reason to interfere. The appeal deserves to and is, accordingly, dismissed. No costs.

[R.S.Garg, J.]

*kamlesh**